

HB 253 - AS AMENDED BY THE HOUSE

14Feb2019... 0246h

2019 SESSION

19-0332

04/08

HOUSE BILL 253

AN ACT relative to criminal records checks in the employee application process.

SPONSORS: Rep. Cahill, Rock. 17; Rep. D. Ley, Ches. 9

COMMITTEE: Labor, Industrial and Rehabilitative Services

ANALYSIS

This bill prohibits employers from asking a job applicant about his or her criminal history prior to an interview.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to criminal records checks in the employee application process.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Use of Criminal Records in Employment Decisions. Amend RSA by inserting after chapter 275-G the following new chapter:

CHAPTER 275-H**USE OF CRIMINAL RECORDS IN EMPLOYMENT DECISIONS**

275-H:1 Definitions. In this chapter:

I. "Commissioner" means the commissioner of the department of labor.

II. "Applicant" means a person who applies for employment for a wage, salary, fee, or payment to perform work for an employer, but excludes any person applying for employment in the domestic service of any family or person at the person's home.

III. "Employer" means any individual, partnership, association, corporation, or governmental agency or instrumentality employing any person. "Employer" shall not include:

(a) Any bank holding company, financial holding company, bank, savings bank, savings and loan association, credit union, or trust company, or any subsidiary or affiliate thereof, that is chartered by any state or the United States.

(b) Any state or local government agency which requires use of the employee's or applicant's criminal history or criminal background.

275-H:2 Prohibition on Questions Relating to Criminal Records.

I. Except as provided in paragraph II, no employer shall include a question on any application for employment, as to whether the applicant has ever been arrested, charged with, or convicted of any crime or violation, or adjudicated as a juvenile delinquent, except when the applicant is applying for:

(a) A position with, or related to, a law enforcement agency.

(b) A position that requires a standard fidelity bond or equivalent bond, where the applicant's conviction of a crime would disqualify the applicant from obtaining such a bond.

(c) Any other position that requires automatic disqualification of an applicant with a criminal history pursuant to federal or state law.

(d) A position with an employer who is contractually prohibited from employing any person with a criminal record.

II. An employer may inquire about an applicant's criminal history during an employment interview.

275-H:3 Penalty. Any employer who violates RSA 275-H:2 may be subject to a civil penalty not to exceed \$2,500, to be imposed by the commissioner in accordance with the procedures established in RSA 273:11-a. Any person aggrieved by the commissioner's assessment of such penalty may appeal in accordance with RSA 273:11-c.

2 Effective Date. This act shall take effect January 1, 2020.